

# THE LOCAL CRIMINAL RULES

of

The United States District Court  
for the Eastern District of Oklahoma



Effective October 1, 1996

**UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

**MICHAEL BURRAGE, CHIEF JUDGE**

**FRANK H. SEAY, DISTRICT JUDGE**

**H. DALE COOK, SENIOR DISTRICT JUDGE**

**JAMES H. PAYNE, MAGISTRATE JUDGE**

Counties Within the Eastern District of Oklahoma are:

Adair	Marshall
Atoka	McCurtain
Bryan	McIntosh
Carter	Murray
Cherokee	Muskogee
Choctaw	Okfuskee
Coal	Okmulgee
Haskell	Pittsburg
Hughes	Pontotoc
Johnston	Pushmataha
Latimer	Seminole
Leflore	Sequoyah
Love	Wagoner

William B. Guthrie, Clerk  
U.S. District Court  
U.S. Courthouse  
101 N. Fifth, Room 210  
Muskogee, OK 74401  
(918) 687-2471

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA

**LOCAL CRIMINAL RULE 1.1**

**SCOPE OF THE RULES**

- A. Title and Citation. These Rules shall be known as the Local Criminal Rules of the United States District Court for the Eastern District of Oklahoma. They may be cited as "EDOK LR \_\_\_\_."
- B. Effective Date. These Rules become effective on October 1, 1996.
- C. Scope of the Rules. These Rules shall apply in all proceedings in criminal actions.
- D. Relationship to Prior Rules; Cases Pending on Effective Date. These Rules supersede all previous rules promulgated by this Court, or any Judge of this Court, and they shall govern all applicable proceedings brought in this Court after the effective date. These Rules also shall apply to all proceedings pending on the effective date, except to the extent that in the opinion of the Court the application thereof would not be feasible or would work an injustice.
- E. Judicial Waiver. A Judge may waive any requirement of these Rules when the administration of justice requires such waiver.

**LOCAL CRIMINAL RULE 1.2**

**APPLICABILITY OF CIVIL RULES**

When appropriate in a criminal context, the Local Rules of Civil Procedure are also deemed applicable to criminal cases.

**LOCAL CRIMINAL RULE 4.1**

**WARRANTS AND COMPLAINTS**

- A. Sealing. Upon written application of the government, search warrants, indictments, criminal complaints, arrest warrants, and supporting affidavits may be sealed by order of a Judge or Magistrate Judge. Sealed orders shall remain sealed until further order of the Court unless the expiration time is in the original order.
- B. Filing Upon Return. Pursuant to Rule 41(g), Federal Rules of Criminal Procedure, the Magistrate Judge shall deliver the warrant, the return, the inventory, and all other papers in connection therewith, to the Court Clerk for filing upon return of the warrant.

**LOCAL CRIMINAL RULE 5.1**

**PRELIMINARY PROCEEDINGS**

**UNITED STATES MAGISTRATE JUDGES**

- A. General Authorization. Each Magistrate Judge, including part-time Magistrate Judges, are designated and authorized to perform any function consistent with the Constitution and laws of the United States, including but not limited to:

1. Try persons accused of, and sentence persons convicted of, misdemeanors committed within this district in accordance with 18 U.S.C. § 3401, and order a presentence investigation report on any such person;
  2. Enter bond forfeitures, remissions and judgment on bond forfeitures and exonerations of bonds in proceedings before the Magistrate Judge;
  3. Conduct removal proceedings and issue warrants of removal in accordance with Rule 40, Federal Rules of Criminal Procedure;
  4. Accept pleas and impose sentences upon the transfer of any information or indictment charging a misdemeanor offense, pursuant to Rule 20, Federal Rules of Criminal Procedure, if the defendant consents in writing to this procedure;
  5. Conduct extradition proceedings in accordance with 18 U.S.C. § 3184;
  6. Conduct proceedings pursuant to letters rogatory in accordance with 28 U.S.C. § 1782 as a person hereby appointed by the Court;
  7. Conduct preliminary hearings; and
  8. Accept pleas of guilty in felony cases, with consent of the parties.
- B. Authorization. Each full-time Magistrate Judge appointed by this Court is designated and authorized to perform any



function consistent with the Constitution and laws of the United States, including but not limited to:

1. Conduct hearings, including evidentiary hearings, and submit to a District Judge of the Court proposed findings of fact and recommendations for the disposition of any motion excepted in 28 U.S.C. § 636(b) (1) (A), of applications for post-trial relief by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement;
2. Conduct pretrial conferences and enter pretrial orders, upon request of a District Judge of the Court;
3. Conduct arraignments in felony criminal cases to the extent of taking "not guilty" pleas upon request of a Judge of the Court and "guilty pleas" upon consent;
4. Conduct and finalize proceedings on petitions under Title III of the Narcotics Addict Rehabilitation Act, 42 U.S.C. § 3411 et seq.;
5. Impanel and recall the grand jury and receive returns in accordance with Rule 6, Federal Rules of Criminal Procedure;
6. Conduct preliminary hearings on petitions to revoke probationary sentences as requested by a Judge of the Court;
7. Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or

- other orders necessary to obtain the presence of parties, witnesses or evidence for court proceedings;
8. Accept waivers of indictment pursuant to Rule 7(b), Federal Rules of Criminal Procedure;
  9. Conduct hearings on petitions to modify, revoke, or terminate supervised release pursuant to 18 U.S.C. § 3401(1); and
  10. Issue findings of fact and recommendations as to disposition of a proposed order of restitution arising under the "Antiterrorism and Effective Death Penalty Act of 1996."

#### **LOCAL CRIMINAL RULE 12.1**

##### **MOTIONS, APPLICATIONS AND OBJECTIONS**

- A. Motions in Writing. Motions in criminal cases shall be in writing and state with particularity the grounds therefor and the relief or order sought. Each claim for relief must be contained in a separate document.
- B. Concise Brief Required. All motions and responses thereto must be accompanied by a concise brief citing all authorities upon which the movant or respondent relies.
- C. Combined Motion and Brief. The motion and brief may be combined in a single pleading.
- D. Copies of Motions and Briefs. When filing motions and briefs, the original and one copy of each motion and brief shall be filed with the Court Clerk.

- E. Notice of Motion Dates. In cases where counsel for defendant has made an appearance of record, notice setting a time for the filing of motions and responses thereto may be sent by the Court Clerk.
- F. Time of Filing in Absence of Notice. All motions shall be filed with the Court Clerk within such time as the Court may order. Absent such special order, all such motions shall be filed with the Court Clerk within eleven (11) days after arraignment. The responses shall be filed within five (5) days of the filing of said motions, unless a different time is fixed by statute or the Federal Rules of Criminal Procedure, or the Court orders otherwise.
- G. Extensions of Time and Continuances. The first page of motions for extension of time and motions for continuance shall contain a statement as to whether or not opposing counsel objects to the motion.
- H. Reference to Magistrate Judge. Motions filed in criminal cases may be referred to a Magistrate Judge for handling pursuant to 28 U.S.C. § 636.
- I. Discovery in Criminal Cases. Under Rule 16, Federal Rules of Criminal Procedure, the parties are expected to complete discovery themselves, and the necessity of filing discovery motions is eliminated except when disputes arise. Discovery orders are hereby eliminated except when irreconcilable disputes arise. The Court shall not hear any such motion unless counsel for the movant certifies in writing to the

Court that the opposing attorneys have conferred in good faith and have been unable to resolve the dispute.

- J. Motions to Reconsider or Overrule Actions Taken by District Judges or Magistrate Judges of This District in Connection with Ex Parte Applications. Once a motion or application has been presented and an order entered by a Judge or Magistrate Judge sitting in this district, any request to reconsider or overrule such determination shall be presented to the Judge or Magistrate Judge entering the order, if available. If presented to a different Judge or Magistrate Judge, the movant or applicant shall make known the action taken by the Judge or Magistrate Judge to whom it was previously submitted. This provision is intended to apply to such matters as applications for search warrants, wiretaps, pen registers, and other such applications or motions which are made to a Judge or Magistrate Judge without a case having been filed. It is not a means to appeal an order entered in a case, nor is it intended to apply where a case is transferred from one Judge to another and a motion to reconsider a prior ruling is made.
- K. Stay of Release Pending Appeal of Bond Decision. At the conclusion of a bond hearing pursuant to 18 U.S.C. § 3142 in which a Magistrate Judge has set a bond which will result in release of a defendant if the conditions of the bond are met, an announcement in open court by the prosecutor that the government intends to appeal the bond to a District

Judge shall result in an immediate stay of the bond set by the Magistrate Judge. Such stay shall continue until 5:00 p.m. that day, or in the event the bond is set in open court after 5:00 p.m., until 9:30 a.m. the morning of the following business day, unless the prosecutor shall file a written notice of appeal with the Court Clerk, upon which the stay shall become permanent unless and until it is lifted by a District Judge. The notice of appeal may be summary in form and need not be typed, but it shall be filed on or before the close of the business day following the day the bond was set by the filing of a detailed factual statement, in proper form, setting forth the grounds of appeal.

#### **LOCAL CRIMINAL RULE 17.1.1**

##### **PRETRIAL CONFERENCE**

- A. Conferences In Criminal Cases. Pretrial conferences may be held in criminal cases for the purpose of considering such matters as will promote a fair and expeditious trial. Such conference may, at the direction of the Court, be conducted by a Magistrate Judge.
- B. Stipulations and Exhibits. Consistent with the applicable Federal Rules of Criminal Procedure, and whenever it can be done without violating or jeopardizing the constitutional rights of the defendant in any criminal case, stipulations should be made at or prior to the pretrial conference with

respect to the undisputed facts and the authenticity of documents. Each instrument which either party anticipates may be offered into evidence by either side should be marked with an exhibit number prior to the trial.

#### **LOCAL CRIMINAL RULE 26.1**

##### **LISTS OF WITNESSES AND EXHIBITS AT TRIAL**

- A. List of Witnesses. At the commencement of the trial, unless otherwise ordered, counsel shall submit to the presiding Judge, the courtroom deputy clerk, and the court reporter, a typewritten list of the witnesses they expect to call, including known rebuttal witnesses. In cases involving treason or other capital offenses, the three-day provision of 18 U.S.C. § 3432 shall apply, unless otherwise ordered.
- B. List of Trial Exhibits. At the commencement of a trial, unless otherwise ordered, counsel shall submit to the presiding Judge, the courtroom deputy clerk, and the court reporter a typewritten list of the exhibits they plan to introduce, designated by trial exhibit numbers.

#### **LOCAL CRIMINAL RULE 32.1**

##### **GUIDELINE SENTENCING**

- A. Origin of Procedure. The following procedures shall govern sentencing proceedings under the Sentencing Reform Act of 1984 (Pub.L. 98-473, Title II, ch.II, §§ 211-239). See 28

U.S.C. § 994, 18 U.S.C. § 3553 and Rule 32, Federal Rules of Criminal Procedure.

- B. Reason for Procedure. To provide adequate time for the United States Probation Office's preparation of the presentence investigation report (PSI), disclosure of the PSI to the parties, the filing of presentence submissions by the parties, and such other and further procedures contemplated by the Sentencing Guidelines and these Rules, the following procedure is implemented.
- C. Scheduling of Sentencing. Sentencing proceedings shall not be scheduled sooner than thirty-five (35) days following the date of disclosure of the presentence report.
- D. PreSentencing Procedure. In addition, the following procedure shall be followed prior to the date set for sentencing:
  - 1. Not less than thirty-five (35) days prior to the date set for sentencing, the probation officer shall disclose the presentence investigation report to the defendant and to counsel for the defendant and the government. Within fourteen (14) days thereafter, counsel shall communicate to the probation officer any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, or policy statements contained in or omitted from the report. Such communication may, in the first instance, be oral or written, but if oral,

should be confirmed immediately in writing, unless the probation officer forthwith accedes to the oral request or objection by a written supplement to the PSI.

2. After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report as may be necessary. The probation officer, as a representative of the Court, may require counsel for both parties to meet at a designated time and place with the officer to discuss unresolved factual and legal issues.
3. Not later than seven (7) days prior to the date of the sentencing hearing, the probation officer shall submit the presentence report to the sentencing Judge. The report shall be accompanied by an addendum setting forth any objections made by counsel which remain unresolved or at issue, together with the officer's comments thereon. The probation officer shall certify that the contents of the report, including any revisions thereof, have been disclosed to the defendant and to counsel for the defendant and the government, that the content of the addendum has been communicated to counsel, and that the addendum fairly states any remaining objections. However, such certification does not relieve the necessity of compliance with Rule 32(c)(3)(A), Federal Rules of Criminal Procedure, and at the sentencing hearing defense counsel should be



prepared to state on the record that the defendant has personally read the presentence report and has discussed it with counsel.

4. Except with regard to any objection made under subsection (1) that has not been resolved, the report of the presentence investigation may be accepted by the Court as accurate. However, for good cause shown, the Court may allow a new objection to be raised at any time before sentence is imposed. The new objection must be in writing and must not have been made previously. In resolving disputed issues of fact at the sentencing hearing or prior thereto, the Court may consider any information it deems reliable presented by the probation officer, the defendant, or the government.
5. The times set forth in this Rule may be modified by the Court for good cause shown, except that the thirty-five (35) day period set forth in subsection (1) may be diminished only with the consent of the defendant.
6. Nothing in this Rule requires the disclosure of any portions of the presentence report not otherwise disclosable under Rule 32, Federal Rules of Criminal Procedure. The probation officer may recommend to the Court a specific sentence within the applicable sentencing guideline table range, or a departure therefrom, if in the probation officer's opinion such

is justified under the facts and circumstances presented.

7. The presentence report shall be deemed to have been disclosed (a) when a copy of the report is physically delivered, or (b) one (1) day after the report's availability for inspection is orally communicated, or (c) three (3) days after a copy of the report or notice of its availability is mailed.
8. Nothing in these Rules requires the probation officer to disclose any sentencing recommendation to counsel.

## **LOCAL CRIMINAL RULE 32.2**

### **PRESENTENCE REPORTS**

- A. Confidential. The pretrial services, presentence and probation reports maintained by the probation office of this Court are hereby declared to be confidential and, except as otherwise authorized in this Rule, are to be used only as allowed by 18 U.S.C. § 4205(e), § 4208(b)(2), and Rule 32, Federal Rules of Criminal Procedure. Correspondence to the United States Probation Office or to the Court, relative to a charged defendant, shall also be deemed confidential and shall not be released publicly except upon order of the Court.
- B. Sentencing Briefs. A copy of any sentencing brief filed or submitted by the defendant or government shall be

contemporaneously provided to the United States Probation Office.

**LOCAL CRIMINAL RULE 32.3**

**SENTENCING CORRESPONDENCE**

Attorneys for all parties shall arrange to have written correspondence on behalf of defendants, victims, or other interested parties, which is submitted for the Court's consideration at sentencing, sent to the Court through the probation office. Upon receipt of such materials, the probation office shall ensure through counsel that all parties have copies of such correspondence prior to sentencing. Any written correspondence sent directly to the Court pertinent to a defendant pending sentencing should also be made available to counsel of record prior to sentencing. Any correspondence received by the Court or the probation office shall be treated in the same manner as the presentence report, and shall not be released to third parties without approval of the Court. An inadvertent failure to supply such correspondence to counsel shall not be a basis for resentencing except to correct a manifest injustice.

Further, in exceptional situations, the Court may determine that certain correspondence involves security or privacy concerns which require the correspondence to be placed under seal and not be furnished to the parties.

**LOCAL CRIMINAL RULE 49.1**

**FORMAT OF PAPERS FILED**

- A. General Format of Papers Presented for Filing. All pleadings, motions, and other papers presented for filing shall be on flat, unfolded 8 1/2 x 11 inch white paper of good quality. The documents shall be plainly typewritten, printed, or prepared by a clearly legible duplication process. Each page shall be double-spaced in a font or typeface that contains no more than 12 characters per inch, except for quoted material, and numbered consecutively.
- B. Filing Requirement. The original and one copy of all criminal pleadings, motions, or orders shall be tendered to the Court Clerk for filing.
- C. Identification of Filing Attorney. All pleadings and motions shall have the signing attorney's firm name, address, telephone and facsimile numbers, and state bar membership number typed under the signature line.

**LOCAL CRIMINAL RULE 53.1**

**RESTRICTION OF PHOTOGRAPHY, RADIO, TELEVISION**

**EQUIPMENT, AND TAPE RECORDERS**

The taking of photographs and operation of tape recorders in the courtroom and radio or television broadcasting from the courtroom during the progress of, or in connection with judicial proceedings, including proceedings before a Magistrate Judge, whether or not court is actually in

session, are prohibited unless prior leave is granted by the Court. A Judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record; (2) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings; and (3) the use of personal computers by attorneys.

### **LOCAL CRIMINAL RULE 57.1**

#### **RELEASE OF INFORMATION BY ATTORNEYS IN CRIMINAL CASES**

- A. Release of Information or Opinions. It is the duty of the lawyers or law firm not to release, or authorize the release of, information or opinions which a reasonable person would expect to be disseminated by any means of public communication in connection with pending or imminent criminal litigation with which a lawyer or law firm is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.
- B. Extrajudicial Statements During Investigation. With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in, or associated with, the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated, by any means of public communication, that goes beyond the public record or that is

not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

C. Extrajudicial Statements After Investigation. From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter, until the commencement of trial or disposition without trial, a lawyer or law firm associated with the prosecution or defense shall not release, or authorize the release of, any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication, relating to that matter and concerning:

1. The prior criminal record (including arrests, indictments, or other charges of crime) or the character or reputation of the accused, except that the lawyer or law firm may make a factual statement of the accused's name, age, residence, occupation, and family status and, if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in apprehension of the accused or to warn the public of any dangers the accused may present;

2. The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;
3. The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
4. The identity, testimony, or credibility of prospective witnesses, except that the lawyer or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law;
5. The possibility of a plea of guilty to the offense charged or a lesser offense; or
6. Any opinion as to the accused's guilt or innocence, or as to the merits of the case, or the evidence in the case.

D. Statements Permitted. The foregoing shall not be construed to preclude the lawyer or law firm during this period, in the proper discharge of the lawyer's or the law firm's official or professional obligations, from: (1) announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons); (2) announcing the identity of the investigating and arresting officer or agency, and the length of the investigation; (3) announcing at the time of seizure of any physical evidence other than a confession, admission or statement, a description of the evidence seized; (4)

disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; (5) quoting or referring without comment to public records of the Court in the case; (6) announcing the scheduling or result of any stage in the judicial process; (7) requesting assistance in obtaining evidence; or (8) announcing without further comment that the accused denies the charges made against him or her.

- E. Extrajudicial Statements During Trial. During a jury trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial, the parties, or the issues in the trial which a reasonable person would expect to be disseminated by means of public communication, if there is a reasonable likelihood that such dissemination will interfere with a fair trial, except that the lawyer or law firm may quote from, or refer without comment to, public records of the Court in the case.
- F. Special Situations. Nothing in this Rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any



lawyer from replying to charges of misconduct that are publicly made against him or her.

**LOCAL CRIMINAL RULE 57.2**

**PROHIBITION OF RELEASE OF INFORMATION**

**BY COURTHOUSE PERSONNEL**

All court supporting personnel, including among others, marshals, deputy marshals, court clerks, court security officers, court reporters, and employees or subcontractors retained by the court-appointed official reporters, are prohibited from disclosing to any person, without authorization by the Court, information relating to pending grand jury proceedings, in camera arguments, and hearings held in chambers or otherwise outside the presence of the public, or information relating to any criminal case that is not part of the public records of the Court.

**LOCAL CRIMINAL RULE 57.3**

**SENSATIONAL CASES**

- A. Special Order. In a widely publicized or sensational criminal case, the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and

any other matters which the Court may deem appropriate for inclusion in such an order. Such a special order might address some or all of the following subjects:

1. A proscription of extrajudicial statements by participants in the trial (including lawyers, parties, witnesses, jurors, and court officials) which might divulge prejudicial matter not of public record in the case;
2. Specific directives regarding the clearing of entrances to, and hallways in the courthouse, and respecting the management of the jury and witnesses during the course of the trial, to avoid their mingling with or being in the proximity of reporters, photographers, parties, lawyers, and others, both in entering and leaving the courtroom or courthouse and during recesses in the trial;
3. A specific direction that the jurors refrain from reading, listening to, or watching news reports concerning the case, and that they similarly refrain from discussing the case with anyone during the trial and from communicating with others in any manner during their deliberations;
4. Sequestration of the jury on motion of either party or by the Court, without disclosure of the identity of the movant;

5. Direction that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch made of any juror within the environs of the Court;
  6. Isolation of witnesses during the trial; or
  7. Specific provisions regarding the seating of spectators and representatives of news media, including:
    - a. An order that no member of the public or news media representative be permitted at any time within the bar railing;
    - b. The allocation of seats to news media representatives in cases where there are excessive requests, taking into account any pooling arrangement that may have been agreed to among the news media.
- B. Listing Not Exhaustive. The list of subjects mentioned above is not intended to be exhaustive, but is merely illustrative of some of the matters which might appropriately be dealt with in such a special order.

**LOCAL CRIMINAL RULE 57.4**

**PLAN FOR IMPLEMENTING THE CRIMINAL JUSTICE ACT**

**PURSUANT TO 18 U.S.C. § 3006A**

- A. Criminal Justice Act Plan. A Federal Public Defender organization, supervised by a Federal Public Defender, shall

assist in the administration of the Court's Criminal Justice Act Plan and maintain a register of eligible attorneys. The Plan for Implementing the Criminal Justice Act is on file in the Court Clerk's office.

- B. Claims for Compensation. Attorneys filing claims under the provisions of 18 U.S.C. § 3006A must submit their claims for compensation and reimbursement to the Federal Public Defender of this Court within thirty (30) days after final disposition of the case by this Court. After review of the claim, it will be submitted to the Court for approval. If the claim is not timely submitted to the Federal Public Defender, the Court may disallow payment.
- C. Withdrawal of Appointed Counsel. Prior to sentencing, withdrawal of appointed counsel shall be by leave of this Court upon written application. After sentencing, appointed counsel shall continue to represent appellant until relieved by the United States Court of Appeals for the Tenth Circuit.
- D. Withdrawal of Retained Counsel. Retained counsel who have entered an appearance on behalf of a criminal defendant will not ordinarily be permitted to withdraw until after arraignment. Withdrawal of retained counsel who have entered an appearance on behalf of a criminal defendant shall be by leave of Court upon written application.

**LOCAL CRIMINAL RULE 58.1**

**FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE**

A person who is charged with a petty offense as defined in 18 U.S.C. §§ 1(3), 7(3), and 13, other than an offense requiring a mandatory appearance as shown on the schedule to this Rule (on file in the Court Clerk's office), may, in lieu of appearance, post collateral in the amount indicated for the offense, waive appearance before a Magistrate Judge, and consent to forfeiture of collateral. The offenses for which collateral may be posted and forfeited in lieu of appearance by the person charged, together with the amounts of collateral to be posted, are contained in a written schedule approved by the Court and on file with the Court Clerk.

ADOPTED by the Judges of this Court effective October 1, 1996.

\_\_\_\_\_  
MICHAEL BURRAGE, Chief Judge

\_\_\_\_\_  
FRANK H. SEAY, U.S. District Judge

\_\_\_\_\_  
JAMES H. PAYNE, U.S. Magistrate Judge

ATTEST:

\_\_\_\_\_  
William B. Guthrie, Court Clerk